IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.1077 OF 2003
IN
SUMMARY SUIT NO.602 OF 2003

Smt.Malti Hiralal Chavan .. Plaintiff

Vs.

1. Smt.Meena Raghunath Gaikwad
and Anr. .. Defendants

Mr.Rajeev Matkar for the plaintiff

Mr.H.S.S.Murthy for defendant no.1 and 2

**CORAM : S.U.KAMDAR, J**
**DATED : 23RD AUGUST, 2005**

P.C.:

1. The present suit is filed for the recovery of sum of Rs.3,70,000/- purported to have been paid under the deed of mortgage dt.8.2.00 which is Ex.D to the plaint. Admittedly, the amount is purported to have been paid in cash. It is also an admitted position that the deed of mortgage was not registered at the relevant time when the document was executed which created interest in immovable property and thus required compulsory registration u.s.17 of the Registration Act. It is also an admitted position that one of the party who has

signed the document is not impleaded.

2. It is the case of the defendants that the document is bogus and signature is obtained without making her understand what is the document which has been executed. Defendants are also disputing receipt of the payment. In view thereof, triable issues are made out.

3. In view thereof, unconditional leave to defend is granted. Suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.